

JUL 19 2005

TAX AND REVENUE DIVISION
SALT LAKE COUNTY

IN THE THIRD JUDICIAL DISTRICT COURT
SALT LAKE COUNTY, STATE OF UTAH
SALT LAKE DEPARTMENT

By _____ Deputy Clerk

IN THE MATTER OF THE UNITED
EFFORT PLAN TRUST

:
:
MINUTE ENTRY
and
NOTICE OF HEARING
:
Case No. 053900848
:
Judge Denise Posse Lindberg
:
Date: July 19, 2005

¶1 Notice is hereby given that the Court will hold a hearing regarding the appointment of trustees on August 4, 2005 at 1:30 p.m.¹ Pursuant to the Order entered on June 22, 2005, interested parties must "propose trustees by filing a petition with the Court 10 days prior to the hearing and provide notice as ordered by the Court."

¶2 As a preliminary matter it is necessary to address who has standing to propose trustees, i.e., who is an "interested party." For purposes of this proceeding interested parties include the following: (1) the Corporation of the Fundamentalist Church of Jesus Christ of Latter Day Saints ("FLDS church") as a contingent beneficiary under the Amended and Restated Declaration of Trust (the "Restatement") of the United Effort Plan Trust ("UEP"); (2) current trustees of the UEP who are the subject of the current removal petition; (3) the Attorneys General of Utah and Arizona, both of whom assert standing under common law and statutory grounds when charitable trusts are at issue; and (4) all beneficiaries of the UEP, including those who have brought civil actions against the trust.

¶3 The beneficiaries of the UEP were defined in *Jeffs v. Stubbs*, 970 P.2d 1234 (Utah 1998) as anyone who "consecrate[d] property to the trust." *Id.* at 1252-53. Following that Court decision the UEP was amended, expanding the list of potential beneficiaries. In addition to those who have consecrated property, potential beneficiaries also include those who have consecrated "their time[], talents and resources" to the UEP. Restatement, II at 3 ("Those who seek that privilege [of participating in the UEP] commit themselves and their families to live their lives according to the principles of the United Effort Plan and the Church, They must consecrate their lives, times, talents and resources to the building and establishment of the Kingdom of God on Earth").

¹This hearing was originally set for July 21, 2005 but has been rescheduled because the judge previously assigned to the case recused himself.

¶4 An organization calling itself the Child Protection Project ("CPP") has also filed a Notice of Interested Parties and Response to Petitions, objecting to certain current and proposed trustees and offering its own slate of candidates. The CPP appears to be a California-based group that describes itself as "a 501c3 . . . dedicated to stopping the institutionalized abuse of children in quasi-religious groups" Nothing in CPP's Notice establishes its standing to participate in these proceedings. Additionally, as an organization it must be represented in Court by a Utah-licensed attorney. However, its lodgings with the Court have been filed by a non-attorney attempting to act *pro se* on behalf of the organization. For these reasons the Court will not consider the filings of the CPP or any other individual or organization who is not an "interested party."²

¶5 The CPP has lodged with the Court a number of form affidavits from individuals asserting an interest in these proceedings and stating their support for CPP's proposals. With one exception, the affidavits filed by or on behalf of CPP do not clearly show that these individuals are interested parties. Accordingly, the Court concludes that these individuals also lack standing. The one exception to this determination is the affidavit of Janet Ellen Johanson ("Johanson") in support of CPP's position. Johanson's affidavit states that she "participated in building up the UEP Trust by laboring on UEP work projects and by providing to the UEP Trust money I earned during those years." The Court determines that Johanson has standing in this action and accepts Johanson's affidavit as a *pro se* notice of interest. Johanson may continue representing herself in this action or may opt to be represented by a Utah-licensed attorney at the August 4 hearing.

¶6 The Court notes that the Johanson affidavit objects to certain proposed trustees and generally expresses support for the substitute trustees nominated by CPP. Johanson's objection is noted and she (or her legal representative) may address it at the Court's upcoming hearing. However, with regard to any affirmative nomination of trustees, Johanson's affidavit fails expressly to identify any nominees and the CPP proposal on which she relies is not properly before the Court. Accordingly, Johanson will need to submit, on a timely basis, any nominees whom she wishes the Court to consider for appointment as trustees of UEP. Similarly, if other "interested parties" (as defined herein)³ would like to participate in this litigation, they are


² A similar disqualification applies to Jaybe Beswick, who has filed a memorandum on behalf of an undetermined entity named "FOR KIDS SAKE."

³ Any individual seeking recognition as an "interested party" must file an affidavit clearly indicating how he or she is an intended beneficiary under UEP (i.e., that he/she has consecrated

instructed to file timely their notice of interest, supporting affidavit and nomination. As stated previously, interested individuals may be represented by legal counsel or may proceed *pro se*. However, they cannot be represented by a non-lawyer or by an organization that lacks standing. See Utah Code Ann. § 78-9-101; Utah R. Prof'l Conduct 5.5.

¶7 Finally, consistent with the suggestion in the Utah Attorney General's Petition, the Court directs Petitioner to publish notice of the August 4 (and of any other required hearings) in the newspapers identified at paragraph 9 of the Petition. The notice is to be published once in each identified newspaper, at least ten (10) days prior to the hearing.

DATED this 19th day of July, 2005.


Judge Denise Posse Linde
District Court Judge

